

To: William E. Kennard, Chairman – Federal Communications Commission

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From: Thomas A. Dykstra 

MAR 23 2000

CC: Professor Glenn H. Reynolds

FCC MAIL ROOM

Date: March 9, 2000

RE: Public Interest Obligations of Television Broadcast Licensees

FCC Docket No. 99-390

65 Fed. Reg. 4211- 01

Dear Chairman Kennard:

In response to the FCC's request for public comments concerning the public interest obligations of digital television broadcast licensees, I would like to voice my concerns as both a television consumer and future participant in local politics. From the comments that have been filed and posted thus far, I have noticed that a number of groups argue in favor of modified public interest requirements for providers of digital television. While I agree with the underlying ideals of both the NOI and many of the comments, I would respectfully argue for more sweeping measures as concern encouraging political discourse.

I. Introduction and Background:

Since the introduction of the radio wave medium of communication, there has been an understanding that, given the inherently public nature of their medium, broadcasters have a special responsibility to their respective communities. The enforcement of broadcasters' responsibilities to the "public['s] interest, convenience, and

necessity”¹ has been legitimately delegated to the FCC by Congress², and with this responsibility comes the prerogative to review the public interest requirements of broadcasters in light of the technological advances of digital television. With digital advancements including the potential for interactive television and viewer control over various features of the presentation of programming, the potential for advancing the public good is tremendous. With that in mind, I hope to address one of the legitimate concerns with the NOI, namely that it “often mus[es] about public interest mandates that have no discernable nexus to the transition to digital technology.”³

I urge the Commission to adopt more extensive measures to encourage political discourse. Specifically, I support measures that would require broadcasters of digital television to promote political discourse by providing interactive coverage of public meetings within their communities.⁴ Furthermore, I would urge the Commission to compel the broadcasters to utilize the technological benefits of digital television to make these broadcasts both understandable and meaningful for all of those able to receive free television. While Americans are able to view the workings of their national legislatures through CSPAN I and II, there exists no counterpart for local legislatures and committees. As a result, those who are unable to attend the meetings, whether because of work conflicts or the unavailability of transportation to the meetings, are left to the mercy of local newspapers for details of their community’s governing committees.

¹ NOI ¶ 1.

² FCC v. WNCN Listeners Guild, 450 U.S. 582, 596 (1981) quoting FCC v. Nat’l Citizens Comm. For Broadcasting, 436 U.S. 775, 810 (1978).

³ Separate Statement of Commissioner Harold Furchtgottroth, p. 1.

⁴ Examples of community meetings that a licensee may cover include, but are certainly not limited to School Board Meetings, Chamber of Commerce Meetings, and Town Council Meetings.

Furthermore, those in the community who do not have access to newspapers or are unable to read English have little or no say in the community's governance.

II. Promotion of Political Discourse Through Digital Television:

By requiring digital broadcast licensees to provide coverage of community meetings, while utilizing all of the benefits of digital television, the FCC would accomplish a number of the goals and priorities that it sets forth in the NOI. Firstly, the above measures would satisfy in part the broadcaster's responsibility to the needs and interests of its community of license by promoting interest and access to the community's administration.

Second, the possibility of interactive television could go a long way towards involving those with disabilities in the administration of community affairs. An elderly person with hearing difficulties could take advantage of the close captioning option, and be able to respond interactively with those conducting the meeting through the use of the Internet. In addition, those who are of able mind, but disabled in a way that would ordinarily prevent them from actually attending community meetings would be able to participate in the community's affairs as well.

Third, the ability of digital licensees to provide services in different languages would serve to promote the goal of diversity in politics and the community as a whole. The promotion of diversity is particularly appealing in community matters in that those from other countries who have not yet learned English could offer valuable insights to value and responsibility of the freedoms we enjoy in America. An illustration of how valuable digital television could be to the goal of diversity is the example of one of my college friends and her family from Romania. While Irene had managed to learn English,

her father, who was a significant leader in the freedom movement in Romania, had yet to learn, and had great difficulty communicating with others. I dare say that his views on the responsibilities that follow freedom would be of value to any community, and with the advancements of digital television, it may be possible for his community to benefit from his insights.

Fourth, interactive community meetings would provide an education tool for children, another prime objective of the FCC. By allowing children a voice in the community, especially School Board meetings, through two mediums that they are intimately familiar with, television and computers, broadcasters would serve to promote childrens' interest in their communities, and ingrain civic responsibilities. Furthermore, to anyone who would argue that such a measure would be meaningless given kids' terminal apathy when it comes to local administrative matters, I would suggest that he or she consult a child about many communities' measures to enact school uniforms.

III. Implementation of Proposed Requirements:

Returning again to Commissioner Harold Furchtgottroth's complaints with the NOI,⁵ I will articulate a number of ways in which increased political discourse can be realized through digital television with a minimum of intrusion on the broadcasters' interests. With the advent of digital television, broadcasters who before could only utilize one channel, can now utilize five. With the increase of four available channels, it would not be a terrible or unreasonable burden to require broadcasters to devote a portion of a few or even just one of the channel's air time to local community matters. In the alternative, however, if the broadcasters find this requirement to be too burdensome, then it may be possible to create a subsidy system in which the broadcasters support a channel

for each community that continually broadcasts community matters, as does the cable industry for CSPAN I and II. Either way the broadcasters choose to serve the community, it does not appear that the burden would be intolerable.

IV. Arguments Against the Imposition of Additional Requirements on

Broadcasters:

In browsing the comments posted on the FCC Internet site, as well as the concurring and dissenting opinions attached to the NOI, I have come across a number of valid criticisms of additional requirements for broadcasters of digital television. One criticism of additional public service burdens on broadcasters is that the advent of new digital technology of itself should not justify additional public service requirements. This argument assumes that there is a fixed level of public service required of the broadcasters regardless of advances in technology. If government regulations were static, as this argument assumes, then the government would still be limited to regulations established for typewriter and dirigible safety. More reasonable, however, is the argument that broadcasters' responsibilities to their communities should be commensurate with their technological advances. From this argument, it makes sense for broadcasters to assume greater roles in community service, specifically in the advancement of political discourse, as their ability to broadcast becomes more flexible and advanced.

Another valid criticism of increased public service requirements for broadcasters is the argument that expanded community service is contrary to the current trend of deregulation, and is a symptom of the federal government's insistence on 'big government.' Assuming that the first prong of the argument is true, and that the government is in a period of deregulation, the fact that one would argue that an effort to

⁵ See note 3 *supra*.

increase political discourse is symptomatic of 'big government' is interesting. In the NOI, the initial proposal in support of political discourse involves increased airtime for political candidates. While the NOI does not go into detail, one can only assume that the increase in airtime is across the political spectrum, involving neo - Marxists as well as 'Bombs and Bridges' John Birch Society members. Therefore, it seems paradoxical that one would maintain that an increase in political candidate awareness, whoever the candidate may be, would lead directly to 'big government.' Moreover, the more sweeping provisions that I propose would lead to an even greater rise in voter awareness, allowing the populace, if they should so choose, to strike down 'big government' measures.

Yet another criticism of additional public service responsibilities for broadcasters is that "it is not at all clear that free airtime would advance the . . . goals of 'promoting democracy' and 'better educating the voting public.'"⁶ Even if one takes the NOI's proposals for increased political discourse involving free air time for political candidates, it is hard to countenance an argument that providing more information on a candidate's positions and weaknesses in the opponent's campaign does not educate the populace, and thereby lead to a more vital democracy. The opponent's argument becomes even more baseless when applied to my proposals for heightened public service requirements. By providing interactive broadcasts of local political and administrative meetings, it seems clear that the public would have more opportunities to educate themselves on and involve themselves in community matters.

⁶ Separate Statement of Commissioner Harold Furchtgottroth, p. 3 quoting NOI ¶ 31.

V. Conclusion

In conclusion, Mr. Commissioner, I think that the ideals behind the promotion of political discourse through additional public service requirements is both noble and necessary. In fact, I think that more sweeping measures should be adopted by the FCC requiring broadcasters to somehow implement community political and administrative meetings into the program line up. In so doing, the FCC would further virtually all of its stated goals in working with broadcasters to serve the public interest, convenience, and necessity. When I was a college student, I volunteered with a local senator's branch office. Most of my time was spent processing calls from constituents that had, through watching CSPAN, become concerned with a particular piece of legislation, and wanted to voice their opinion on the matter so that our office could forward their ideas to the senator. While this work required a great deal of patience and time, it was nothing short of inspirational to be such a vital cog to democracy. In implementing in part or whole my proposals, it is possible to generate that type of enthusiasm at every level of government.

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MAR 23 2000

FCC MAIL ROOM

To: Magalie Roman Salas
From: Robert Lee McElroy IV
CC: Professor Glenn Reynolds
Date: 3/10/00
Re: Comments on Proposed Public Interest Obligations
of Television Broadcast Licensees

The FCC requested comments on proposals of how broadcasters can best serve the community with the advent of digital television" After researching this topic on the Internet, it is clear that broadcasters were given a gold mine by the 1996 Telecommunications Act.¹ For this reason, broadcasters should adhere to certain rules created by the your agency.

Digital television is an amazing leap in technology. Now instead of one broadcast, a station will be able to send out different broadcasts over one frequency at the same time. This allows for more varied programming and a chance to increase television's usefulness to the public. How to accomplish this goal is the problem. This creates the first issue. Should the FCC regulate digital television with rules requiring compliance with minimum standards or just furnish recommendations to the stations?

¹www.bettertv.org/background.html

Normally I would be against governmental regulation of an industry. I support it here for two reasons. First the broadcasters received a windfall in garnishing the digital spectrum for free under the 1996 Telecommunications Act. Second, television has become America's most important information medium².

My first principle relies largely on the idea that Congress gave the airwaves to the stations, so the stations owe Congress, and thus the people. If broadcasters wanted the freedom to air whatever show they wanted to air, in whatever format they wanted to, they should have purchased the digital airwaves. The FCC has the right and the duty to impose rules and regulations on what the stations can air.

The second reason is policy based. Since its inception television has become more and more important as an information tool. One study found that "69 percent of Americans say TV is the most trusted source of information."³ This is only for information and news, think of how many people just watch for entertainment. Children are targeted also. Starting at 3:00pm everyday, Fox starts two hours of programming aimed exclusively at elementary school and pre-school age children. As a powerful influence

² www.bettertv.org/background.html

³ www.bettertv.org/background.html

upon all Americans, broadcasters have a duty to serve the public interest.

The major guideline that television stations must follow is "serve public interest."⁴ Now that it is clear that the FCC should regulate the broadcasters, what should the FCC focus on? A very important issue is political coverage.

As the 21st century begins, the importance of increasing political discourse and information available about our representatives is obvious. Your own notice that I am commenting on notes this importance by citing the Supreme Court and other studies.⁵ For that reason you asked for suggestions on how to increase the broadcasting of political shows and viewpoints.

The simplest option is to require broadcasters to give an allotted amount of time to candidates during prime hours. This would be a mistake for two reasons. The most prominent is that a voluntary system works now. Your own report cites the National Association of Broadcasters report, which states that broadcasters devoted almost 150 million dollars to political campaigns.⁶ In a poll done on Super Tuesday, almost half of the respondents surveyed said that local

⁴ 1996 Telecommunications Act

⁵ 65 Fed. Reg. 4211, 4216

⁶ 65 Fed. Reg. 4211, 4216